

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C.

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Amendment of Part 90 of the	)	PR Docket No. 93-144
Commission's Rules to Facilitate Future)	)	RM-8117, RM-8030,
Development of SMR Systems in the	)	RM-8029
800 MHz Frequency Band	)	
	)	
Implementation of Section 3(n) and	)	GN Docket No. 93-252
322 of the Communications Act –	)	
Regulatory Treatment of	)	
Mobile Services	)	
	)	
Implementation of Section 309(j)	)	PP Docket No. 93-253
of the Communications Act –	)	
Competitive Bidding	)	

To: The Commission

**REPLY COMMENTS OF NEXTEL COMMUNICATIONS, INC.**

Pursuant to Section 1.429 of the Rules of the Federal Communications Commission ("Commission"), Nextel Communications, Inc. ("Nextel") hereby respectfully submits these Reply Comments regarding the Petition for Reconsideration ("Petition") filed by the American Mobile Telecommunications Association, Inc. ("AMTA") on January 19, 2000 in the above-captioned proceeding. Nextel reiterates that the Commission's has already struck the appropriate balance between upper-200 SMR channel incumbents and Economic Area ("EA") licensees; therefore, the Commission's Rules require no modification.

## I. BACKGROUND

AMTA's Petition requested reconsideration of one aspect of the Commission's Memorandum Opinion and Order on Reconsideration ("MO&O"), specifically the Commission decision to not require "progress payments" to effectuate relocation of 800 MHz upper-200 channel incumbent licensees.<sup>1</sup> The Commission's Rules only require reimbursement of costs associated with relocations after the incumbent has been "fully relocated and the frequencies are free and clear."<sup>2</sup> The Personal Communications Industry Association ("PCIA") and Mobex Communications, Inc. ("Mobex") filed comments on the AMTA Petition.<sup>3</sup> On April 10, 2000, Nextel filed an Opposition to the Petition.<sup>4</sup> Herein, Nextel submits these

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<sup>1</sup> Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, PR Docket No. 93-144, Implementation of Sections 3(n) and 322 of the Communications Act – Regulatory Treatment of Mobile Services, GN Docket No. 93-252, Implementation of Section 309(f) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, Memorandum Opinion and Order on Reconsideration, 64 FR 71042, 14 FCC Rcd 17556 (October 8, 1999).

<sup>2</sup> MO&O at para. 58.

<sup>3</sup> See PCIA's Comments filed on March 15, 2000 and Mobex Comments filed on April 10, 2000.

<sup>4</sup> See Opposition of Nextel Communications, inc. To Petition For Reconsideration of the American Mobile Telecommunications Association, Inc. filed on April 10, 2000 ("Opposition").

Reply Comments in response to the issues raised in Mobex's April 10, 2000 Comments.<sup>5</sup>

## **II. MOBEX'S COMMENTS CONFIRM THAT THE COMMISSION'S RULES SHOULD NOT BE MODIFIED**

Nextel's Opposition explained that the Commission's upper-200 channel incumbent relocation rules were designed to achieve an appropriate balance between the needs of EA licensees and incumbents.<sup>6</sup> Nextel provided significant evidence that the relocation process has proceeded smoothly to date and that many relocation agreements have already been completed. Significantly, AMTA and PCIA admitted that the process has proceeded without "significant" or "specific problems."<sup>7</sup>

Mobex reiterated these views, stating "AMTA is correct" that the "relocation process to date has proceeded without significant problems."<sup>8</sup> Further, Mobex confirmed that "numerous parties reached agreements with EA licensees during the voluntary period"<sup>9</sup> and that "a significant percentage of upper 200 incumbent arrangements will have been reached before the

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<sup>5</sup> Because Nextel's Opposition fully addressed the issues raised in PCIA's Comments, Nextel is not repeating those arguments herein.

<sup>6</sup> Nextel Opposition at page 3.

<sup>7</sup> AMTA Petition at page 2. PCIA Comments at page 2.

<sup>8</sup> Mobex Comments at page 2.

<sup>9</sup> *Id.*

involuntary period commences.”<sup>10</sup> Mobex’s Comments further confirm that the Commission’s Rules are working “as is”, and there is no need for modification.

As Nextel’s Opposition made clear, neither AMTA nor PCIA cite specific examples of incumbent licensees who have been harmed by the current rule structure.<sup>11</sup> Significantly, Mobex, the only SMR upper 200 incumbent (besides Nextel) to comment in this proceeding, provides no concrete basis for its support of AMTA’s position. Mobex merely speculates that not requiring upfront reimbursement of incumbent relocation costs may harm smaller business incumbents.<sup>12</sup> Nextel respectfully submits that the ability of the parties to discuss and address this issue provides the flexibility needed to develop relocation packages suitable to different situations. This flexibility stimulates and furthers the upper-200 channel relocation process. Thus, the current relocation structure promotes the public interest and, therefore, should not be amended.

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<sup>10</sup> *Id.* at pages 2-3, *citing* AMTA’s Petition.

<sup>11</sup> Nextel Opposition at page 5.

<sup>12</sup> Nextel notes that while Mobex’s average annual gross revenues for the past three years may entitle it to certain “small business” bidding credits in future Commission spectrum auctions, Mobex is the third largest SMR provider in the United States, with about 40,000 subscribers. See Mobex’s Internet website at <http://www.mobexcom.com/MOBEX/ABOUT.NSF>.

### III. CONCLUSION

The Commission should not alter the successful balance it struck between the rights of incumbents and EA licensees to further the relocation of upper-200 channel incumbent licenses. All commenters agree that the relocation process is proceeding smoothly.<sup>13</sup> No commenters have demonstrated why "progress payments" will encourage relocation negotiations, speed the relocation process or otherwise serve the public interest. Therefore, the Commission should deny AMTA's petition and allow the relocation process to continue under the present rules.

Respectfully submitted,

NEXTEL COMMUNICATIONS, INC.



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<sup>13</sup> Nextel expects the relocation process to provide even more smoothly now that the Commission has scheduled the Lower 230 SMR channel auctions to begin in August 2000. These two SMR auctions will provide opportunities for EA licensees to acquire more spectrum to better effectuate relocations and provide incumbent operators the opportunity to acquire additional spectrum to expand their businesses.

CERTIFICATE OF SERVICE

I, James B. Goldstein, hereby certify that on this April 20, 2000, caused a copy of the attached Reply Comments of Nextel Communications, Inc. to be served by hand delivery to the following:

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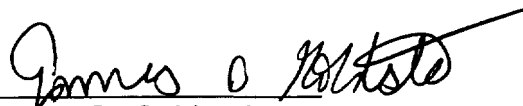
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